0063

DEPARTMENT OF NATURAL RESOURCES DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt Governor Ted Stewart **Executive Director** James W. Carter

355 West North Temple 3 Triad Center, Suite 350 Salt Lake City, Utah 84180-1203 801-538-5340 801-359-3940 (Fax) Division Director 801-538-5319 (TDD)

September 10, 1993

CERTIFIED RETURN RECEIPT P 074 977 037

Mr. Wendell Owen Co-Op Mining Company P.O. Box 1245 Huntington, Utah 84528

Re: Proposed Assessment for State Violation Nos. N93-35-5-1, N93-35-6-1, and N93-35-7-3, Co-Op Mining Company, Bear Canyon Mine, ACT/015/025, Folder #5, Emery County, Utah

Dear Mr. Owen:

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed are the proposed civil penalty assessments for the above-referenced violations. The violations were issued by Division Inspector, Susan White on August 12, 1993. Rule R645-401-600 et. sec. has been utilized to formulate the proposed penalties. By these rules, any written information which was submitted by you or your agent, within fifteen (15) days of receipt of the Notices of Violation, has been considered in determining the facts surrounding the violations and the amount of penalties.

Under R645-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.



. Page 2 N93-35-5-1 N93-35-6-1 N93-35-7-3 ACT/015/025 September 10, 1993

2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within 30 days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of violation will stand, the proposed penalties will become final, and the penalties will be due and payable within thirty (30) days of the proposed assessments. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,

Joseph C. Helfrich Assessment Officer

jbe

Enclosure

cc: Bernie Freeman, OSM

COMPAN	NY/MINE Co-Op Mining Com	npany/Bear Canyon Mine	NOV #N93-35-6-1
PERMIT	#_ACT/015/025	VIOL	_ATION _1_ OF _1_
ASSESSI	MENT DATE <u>09/10/93</u>	ASSESSMENT OFFICER _	Joseph C. Helfrich
I. <u>HI</u>	STORY MAX 25 PTS		
Α.	Are there previous viola fall within 1 year of tod	ations which are not pendingly's date?	ng or vacated, which
ASSESSI	MENT DATE <u>09/10/93</u>	EFFECTIVE ONE YEAR TO	O DATE <u>09/10/92</u>
Pl	REVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
	N93-35-1-1	07/31/93	_1
	5 points for each past v No pending notices sha	TOTAL HIST	e year; ORY POINTS <u>1</u>
II. <u>Se</u>	ERIOUSNESS (either A or B	1	
which ca	For assignment of point acts supplied by the inspector ategory, the Assessment Of ector's and operator's states	ficer will adjust the points	will determine within up or down, utilizing
ls	this an Event (A) or Hi	ndrance (B) violation? _I	<u>Event</u>
A. <u>Ev</u>	vent Violations Max 45 PT	<u>'S</u>	
1.		n the violated standard was	
2.		of the occurrence of the event di	

	PROBABILITY	RANGE	
	None	O	
	Unlikely	1-9	
	Likely	10-19	
	Occurred	20	
	ASSIGN PROB	ABILITY OF OCCURRENCE	POINTS20_
PROVIDE A	N EXPLANATION OF POINTS	5	
A blocked c	ulvert resulted in erosion adj	acent to the coal storage pa	d.
3.	What is the extent of actua		
		RA	ANGE 0 - 25*
	<u> </u>	ler the duration and extent of d impact on the public or en	
		ASSIGN DAMAGE	POINTS 12
PROVIDE A	N EXPLANATION OF POINTS	5	
	y (3 X 5 feet) off the coal s e with respect to culvert C-7		d by the lack of
maintenanc		D.	d by the lack of
maintenanc	e with respect to culvert C-7	PTS hindrance to enforcement?	
maintenanc  B. <u>Hindr</u>	e with respect to culvert C-7 ance Violations MAX 25 Is this a potential or actual	PTS hindrance to enforcement? R extent to which enforceme	ANGE 0 - 25
maintenanc  B. <u>Hindr</u>	e with respect to culvert C-7 ance Violations MAX 25 Is this a potential or actual Assign points based on the	PTS hindrance to enforcement? R extent to which enforceme	ANGE 0 - 25 ent is actually or
maintenanc  B. <u>Hindr</u> 1.	e with respect to culvert C-7 ance Violations MAX 25 Is this a potential or actual Assign points based on the	PTS hindrance to enforcement? R extent to which enforcement violation.  ASSIGN HINDRANCE	ANGE 0 - 25 ent is actually or

TOTAL SERIOUSNESS POINTS (A or B) 32

### III. NEGLIGENCE MAX 30 PTS

A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO** - **NO NEGLIGENCE**;

OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE:

OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

... No Negligence

0

... Negligence

1-15

. . . Greater Degree of Fault

16-30

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 16

### PROVIDE AN EXPLANATION OF POINTS

The inspection of May 20, 1993 by Susan White revealed that culvert C-7D was plugged. Due to the unique design of the culvert which allows coal to cover the inlet, it was difficult to determine if the operator's attempts on May 20, 1993, were successful in unplugging the culvert. Additionally, this was a site of violation N90-35-1-1.

- IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)
  - A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?

... IF SO - EASY ABATEMENT

Easy Abatement Situation

. . . Immediate Compliance

-11 to -20\*

... Immediately following the issuance of the NOV)

. . . Rapid Compliance

-1 to -10\*

. . . (Permittee used diligence to abate the violation)

. . . Normal Compliance

O

(Operator complied within the abatement period required)

(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

- \* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.
- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

### Difficult Abatement Situation

- . . . Rapid Compliance -11 to -20\*
- ... (Permittee used diligence to abate the violation)
- ... Normal Compliance -1 to -10\*
- ... (Operator complied within the abatement period required)
- . . . Extended Compliance 0
  (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EXOT ON DIFFICULT ABATEMENT!

EASY OR DIFFICULT ABATEMENT? \_\_\_\_ ASSIGN GOOD FAITH POINTS \_\_\_\_

PROVIDE AN EXPLANATION OF POINTS

To be evaluated upon termination of the violation.

### V. ASSESSMENT SUMMARY FOR N93-35-6-1

- I.TOTAL HISTORY POINTS1II.TOTAL SERIOUSNESS POINTS32III.TOTAL NEGLIGENCE POINTS16
- III. TOTAL NEGLIGENCE POINTS 16

  IV. TOTAL GOOD FAITH POINTS 0

TOTAL ASSESSED POINTS 49

TOTAL ASSESSED FINE \$ 960.00

COME	PANY/I	MINE Co-Op Mining	<u>Company</u>	y/Bear Canyor	n Mine_	NOV <u>#N93-35-5-1</u>
PERM	IIT #_ <u>#</u>	ACT/015/025			VIOL	ATION <u>1</u> OF <u>1</u>
ASSE	SSME	NT DATE 09/10/9	<u>3</u> AS	SESSMENT O	FFICER _	Joseph C. Helfrich
I.	HISTO	DRY MAX 25 PTS				
	Α.	Are there previous fall within 1 year			ot pendin	g or vacated, which
ASSE	SSME	NT DATE <u>09/10/9</u>	<u>3</u> EFF	ECTIVE ONE	YEAR TO	DATE <u>09/10/92</u>
	PREV	IOUS VIOLATIONS	3	EFFECTIVE D	ATE	POINTS
	_1	N93-35-1-1		07/31/93	·	_1_
		1 point for each p 5 points for each No pending notice	past violat	counted.	up to one	year; DRY POINTS <u>1</u>
II.	SERIC	OUSNESS (either #	A or B)			
NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.						
	Is this	s an Event (A)	or Hindra	nce (B) viol	ation? <u>E</u>	vent
A.	Event	Violations Max	<u>45 PTS</u>			
	1.	What is the event Damage to proper				designed to prevent? er pollution.
	2.	What is the probastandard was des				ent which a violated on did occur.

... PROBABILITY

	None Unlikely	0 1-9		
	Likely Occurred	10-19 20		
	ASSIGN PRO	OBABILITY OF OCCURRE	NCE POINT	<b>S</b> <u>20</u>
PROVIDE A	AN EXPLANATION OF POIN	ITS		
	etor's statement revealed that ot occur; however, runoff fro area.			
3.	What is the extent of act	ual or potential damage?	RANGE	0 - 25*
	• • • • • • • • • • • • • • • • • • • •	sider the duration and exte and impact on the public o		_
		ASSIGN DAN	AGE POIN	TS0
PROVIDE A	AN EXPLANATION OF POIN	ITS		•
The inspec the violation	ctor's statement revealed that	at no noticeable damage o	ccurred as a	result of
B. <u>Hind</u>	drance Violations MAX 2!	<u>5 PTS</u>	e e	
1.	Is this a potential or actua	al hindrance to enforceme	ent? RANGE	0 - 25
	Assign points based on the potentially hindered by the	ne extent to which enforce violation.	cement is a	ctually or
		ASSIGN HINDRA	NCE POINT	rs
PROVIDE A	AN EXPLANATION OF POIN	ITS		

RANGE

### III. NEGLIGENCE MAX 30 PTS

A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;

OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE:

OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

. . . No Negligence

0

... Negligence

1-15

. . . Greater Degree of Fault

16-30

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS \_\_\_8\_

#### PROVIDE AN EXPLANATION OF POINTS

Lack of diligence with respect to maintenance of sediment control structures.

- IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)
  - A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?

... IF SO - EASY ABATEMENT

**Easy Abatement Situation** 

. . . Immediate Compliance

-11 to -20\*

. . . Immediately following the issuance of the NOV)

. . . Rapid Compliance

-1 to -10\*

. . . (Permittee used diligence to abate the violation)

. . . Normal Compliance

0

(Operator complied within the abatement period required) (Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

- Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.
- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

### Difficult Abatement Situation

- . . . Rapid Compliance
- -11 to -20\*
- . . . (Permittee used diligence to abate the violation)
- . . . Normal Compliance
- -1 to -10\*
- . . . (Operator complied within the abatement period required)
- . . . Extended Compliance 0

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? ASSIGN GOOD FAITH POINTS \_\_\_\_O\_\_

#### PROVIDE AN EXPLANATION OF POINTS

To be evaluated upon termination of the violation.

#### ٧. **ASSESSMENT SUMMARY FOR** N93-35-5-1

- 1. TOTAL HISTORY POINTS 11. TOTAL SERIOUSNESS POINTS 20 III.
- **TOTAL NEGLIGENCE POINTS** 8 IV. **TOTAL GOOD FAITH POINTS** - 0\_\_

TOTAL ASSESSED POINTS 29

TOTAL ASSESSED FINE \$ 380.00

COM	PANY/I	MINE Co-Op Mining Co	mpany/Bear Canyon Mine	NOV <u>#N93-35-7-3</u>
PERM	IIT # <u></u>	ACT/015/025	VIOL	ATION <u>1</u> OF <u>3</u>
ASSE	SSMEI	NT DATE <u>09/10/93</u>	ASSESSMENT OFFICER _	Joseph C. Helfrich
1.	HISTO	DRY MAX 25 PTS		
	Α.	Are there previous vio	plations which are not pendir oday's date?	ng or vacated, which
ASSE	SSMEI	NT DATE <u>09/10/93</u>	EFFECTIVE ONE YEAR TO	D DATE <u>09/10/92</u>
	PREV	/IOUS VIOLATIONS	EFFECTIVE DATE	POINTS
		N93-35-1-1	07/31/93	_1_
		No pending notices sh		ORY POINTS 1
II.	SERIC	OUSNESS (either A or	<u>B)</u>	
which	e facts o categ	supplied by the inspectory, the Assessment C	nts in Parts II and III, the follo tor, the Assessment Officer Officer will adjust the points ements as guiding document	will determine within up or down, utilizing
	Is this	s an Event (A) or H	Hindrance (B) violation? <u>E</u>	vent
Α.	Event	Violations Max 45 F	PTS	
	1.		ch the violated standard was ublic safety), damage to protion.	•
	2.		y of the occurrence of the evd to prevent? <u>Unlikely/Insig</u>	

... PROBABILITY

	None		0		
	Unlikely		1-9		
	Likely		10-19		
	Occurred		20		
	AS	SSIGN PROBABILITY	OF OCCURRE	NCE POINT	s2_
PROVIDE A	N EXPLANATION	OF POINTS			
The inspect	or's statement rev	vealed that no event or	ccurred as a re	sult of the v	<u>violation.</u>
3.	What is the exte	ent of actual or poten	tial damage?	RANGE	0 - 25*
		oints, consider the dura s of area and impact o			
			ASSIGN DAM	AGE POIN	rs <u> </u>
PROVIDE A	N EXPLANATION	OF POINTS			
No damage	occurred as a res	sult of the violation.			
B. <u>Hind</u>	rance Violations	MAX 25 PTS			
1.	Is this a potenti	al or actual hindrance	to enforceme	nt? RANGE	0 - 25
		ased on the extent to ered by the violation.	which enforc	ement is a	ctually or
		ASS	SIGN HINDRAI	NCE POINT	s
PROVIDE A	N EXPLANATION	OF POINTS			

**RANGE** 

TOTAL SERIOUSNESS POINTS (A or B) \_\_\_2

N93-35-7-3 1/3 Page 3 of 4

### III. <u>NEGLIGENCE MAX 30 PTS</u>

A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;

OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;

OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

. . . No Negligence

0

. . . Negligence

1-15

. . . Greater Degree of Fault

16-30

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS \_\_15\_

#### PROVIDE AN EXPLANATION OF POINTS

The inspector's statement revealed that numerous times prior to the inspection of August 10, 1993, the inspector, Susan White, had spoken with the operator's representative regarding the need to complete all hydrologic related work prior to construction of a bath house.

### IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?

. . . IF SO - EASY ABATEMENT

**Easy Abatement Situation** 

. . . Immediate Compliance -11 to -20\*

... Immediately following the issuance of the NOV)

... Rapid Compliance -1 to -10\*

. . . (Permittee used diligence to abate the violation)

... Normal Compliance

(Operator complied within the abatement period required)

(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

- \* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.
- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement	Situation
---------------------	-----------

- . . . Rapid Compliance -11 to -20\*
- . . . (Permittee used diligence to abate the violation)
- . . . Normal Compliance -1 to -10\*
- . . . (Operator complied within the abatement period required)
- . . . Extended Compliance 0

  (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

  (Permittee complied with conditions and/or terms of approved)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT?	ASSIGN GOOD FAITH POINTS	-10
PROVIDE AN EXPLANATION OF POINTS		

V. ASSESSMENT SUMMARY FOR N93-35-7-3 1/3

Diligence exercised in abating the violation.

<b>I</b> .	TOTAL HISTORY POINTS	1
II.	TOTAL SERIOUSNESS POINTS	2
111.	TOTAL NEGLIGENCE POINTS	_15_
IV	TOTAL GOOD FAITH POINTS	-10

TOTAL ASSESSED POINTS \_\_8\_

TOTAL ASSESSED FINE \$80.00

COM	PANY/I	MINE Co-Op Mining Cor	npany/Bear Canyon Mine	NOV <u>#N93-35-7-3</u>
PERM	IIT # <u>_</u>	ACT/015/025	VIOL	_ATION <u>2</u> OF <u>3</u>
ASSE	SSME	NT DATE <u>09/10/93</u>	ASSESSMENT OFFICER	Joseph C. Helfrich
1.	HISTO	DRY MAX 25 PTS		
	Α.	Are there previous viol fall within 1 year of to	ations which are not pendir day's date?	ng or vacated, which
ASSE	SSMEI	NT DATE <u>09/10/93</u>	EFFECTIVE ONE YEAR TO	O DATE <u>09/10/92</u>
	PREV	VIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
		N93-35-1-1	07/31/93	_1_
и.	SERIC	No pending notices sha	TOTAL HIST	ORY POINTS1
which	e facts n categ nspecto	supplied by the inspect ory, the Assessment O or's and operator's state	ts in Parts II and III, the follower, the Assessment Officer ficer will adjust the points ements as guiding documents.	will determine within up or down, utilizing its.
			lindrance (B) violation?l	<u>Event</u>
Α.	Event	Violations Max 45 P	<u>TS</u>	
	1.		h the violated standard was nvironmental harm, and wa	
	2.	What is the probability standard was designed	of the occurrence of the end to prevent? <u>Likely</u>	vent which a violated

	PROBABIL	ITY	RANGE		
	None		0		•
	Unlikely		1-9		
	Likely		10-19		
	Occurred		20		
	ASS	SIGN PROBABILITY C	F OCCURREN	ICE POINTS	15_
PROVIDE A	N EXPLANATION	OF POINTS			
Precipitatio	n events would ine	evitably result in offsi	te sediment lo	ading.	
3.	What is the exte	nt of actual or poten	tial damage?	RANGE	0 - 25*
		nts, consider the dura of area and impact o			
			ASSIGN DAM	AGE POINT	so
PROVIDE A	N EXPLANATION	OF POINTS			
No damage	occurred as a res	ult of the violation.			
B. <u>Hind</u>	ance Violations	MAX 25 PTS			
1.	Is this a potentia	l or actual hindrance	to enforceme	nt? RANGE	0 - 25
		sed on the extent to red by the violation.	which enforc	ement is ac	tually or
		ASS	SIGN HINDRAI	NCE POINT	s
PROVIDE A	N EXPLANATION	OF POINTS			

TOTAL SERIOUSNESS POINTS (A or B) \_\_15\_

### III. <u>NEGLIGENCE MAX 30 PTS</u>

A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;

OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE:

OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

. . . No Negligence 0
. . . Negligence 1-15
. . . Greater Degree of Fault 16-30

STATE DEGREE OF NEGLIGENCE <u>Greater Degree of Fault</u>

ASSIGN NEGLIGENCE POINTS \_\_\_20

#### PROVIDE AN EXPLANATION OF POINTS

Indifference on numerous previous inspections, the operator had discussed plans with the Division to complete the hydrologic diversions prior to proceeding with the bath house. In addition to previous warnings during inspections dated June 29 and July 14, 1993, the operator is reflecting a knowing degree of negligence.

### IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?

... IF SO - EASY ABATEMENT

**Easy Abatement Situation** 

. . . Immediate Compliance -11 to -20\*

... Immediately following the issuance of the NOV)

. . . Rapid Compliance -1 to -10\*

. . . (Permittee used diligence to abate the violation)

... Normal Compliance 0
(Operator complied within the abatement period required)
(Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

- \* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.
- Did the permittee not have the resources at hand to achieve compliance В. OR does the situation require the submission of plans prior to physical activity to achieve compliance?
  - ... IF SO DIFFICULT ABATEMENT

### Difficult Abatement Situation

- . . . Rapid Compliance -11 to -20\*
- . . . (Permittee used diligence to abate the violation)
- . . . Normal Compliance
- -1 to -10\*
- . . . (Operator complied within the abatement period required)
- . . . Extended Compliance

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? ASSIGN GOOD FAITH POINTS \_ · -10

#### PROVIDE AN EXPLANATION OF POINTS

Diligence exercised in abating the violation.

#### ٧. ASSESSMENT SUMMARY FOR N93-35-7-3 2/3

- ١. TOTAL HISTORY POINTS 1 TOTAL SERIOUSNESS POINTS 15 11. **TOTAL NEGLIGENCE POINTS** III. 20
- **TOTAL GOOD FAITH POINTS** IV. -10

TOTAL ASSESSED POINTS 26

TOTAL ASSESSED FINE \$ 320.00

COV	MPANY/MINE Co-Op Mining Co	mpany/Bear Canyon Mine	NOV <u>#N93-35-7-3</u>
PERI	MIT #_ACT/015/025_	VIOI	ATION <u>3</u> OF <u>3</u>
ASS	ESSMENT DATE <u>09/10/93</u>	ASSESSMENT OFFICER	Joseph C. Helfrich
1.	HISTORY MAX 25 PTS		
	A. Are there previous vio fall within 1 year of to	lations which are not pendi day's date?	ng or vacated, which
ASS	ESSMENT DATE 09/10/93	EFFECTIVE ONE YEAR TO	O DATE <u>09/10/92</u>
	PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
	<u>N93-35-1-1</u>	07/31/93	_1_
II.	No pending notices sh  SERIOUSNESS (either A or	TOTAL HIST	ORY POINTS <u>1</u>
whic	he facts supplied by the inspect ch category, the Assessment O inspector's and operator's state	officer will adjust the points	will determine within up or down, utilizing ts.
Α.	Event Violations Max 45 P	<u>TS</u>	
	Environmental harm, v	ch the violated standard was water pollution, loss of recl l establishment, diverse and	amation/revegetation

<ol> <li>What is the probability of the occurrence of the event standard was designed to prevent? <u>None of the event of probability of occurrence of reduced establishment</u>, dive</li> </ol>					, but the
		vegetative cover is likely.			
		PROBABILITY	RANGE		
		None	0		
	,	Unlikely	1-9		
		Likely	10-19		
		Occurred	20		
		ASSIGN PROBABILITY O	F OCCURRENC	CE POINTS	15_
PROV	IDE AN	N EXPLANATION OF POINTS			
	<u>pitation</u>	sence of a berm around the topsoil pile events, it is likely that the establishmen			-
	3.	What is the extent of actual or potent	tial damage?	RANGE	0 - 25*
		*In assigning points, consider the dura impact, in terms of area and impact o			_
		·	ASSIGN DAMA	AGE POINT	S _ 8_
PROV	IDE AI	N EXPLANATION OF POINTS			
		of damage is minimal as evidenced by for the disturbed area.	y the small am	ount of co	oal fines
В.	<u>Hindra</u>	ance Violations MAX 25 PTS			
	1.	Is this a potential or actual hindrance	to enforcemen	t? RANGE	0 - 25
	4	Assign points based on the extent to potentially hindered by the violation.	which enforce	ement is ac	tually or
PROV	IDF AN	ASS N EXPLANATION OF POINTS	SIGN HINDRAN		s
		TEXT EXHIBITION OF FORMIO			

### TOTAL SERIOUSNESS POINTS (A or B) \_\_\_23\_\_\_

### III. <u>NEGLIGENCE MAX 30 PTS</u>

A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO - NO NEGLIGENCE;

OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO - NEGLIGENCE;

OR Was this violation the result of reckless, knowing, or intentional conduct? IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.

. . . No Negligence . . . Negligence

1-15

. . . Greater Degree of Fault

16-30

STATE DEGREE OF NEGLIGENCE Greater Degree of Fault

ASSIGN NEGLIGENCE POINTS 20

#### PROVIDE AN EXPLANATION OF POINTS

Indifference on numerous previous inspections and technical visits discussions were held with the operator regarding strip and topsoil, placing a berm, and requisite vegetation to protect the pile prior to preceding with the construction of the bath house as evidenced by inspections reports dated June 29 and July 14, 1993.

## IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?

. . . IF SO - EASY ABATEMENT

Easy Abatement Situation

. . . Immediate Compliance -11 to -20\*

. . . Immediately following the issuance of the NOV)

... Rapid Compliance -1 to -10\*

... (Permittee used diligence to abate the violation)

. . . Normal Compliance

(Operator complied within the abatement period required) (Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

- \* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.
- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement	Situation	ì
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- ... Rapid Compliance -11 to -20\*
- ... (Permittee used diligence to abate the violation)
- . . . Normal Compliance -1 to -10\*
- ... (Operator complied within the abatement period required)
- . . . Extended Compliance 0

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT?	ASSIGN GOOD FAITH POINTS _	-15
PROVIDE AN EXPLANATION OF POINTS		
Diligence exercised in abating the violation	1.	

### V. ASSESSMENT SUMMARY FOR N93-35-7-3 3/3

1.	TOTAL HISTORY POINTS	1_
il.	TOTAL SERIOUSNESS POINTS	_23_
Ш.	TOTAL NEGLIGENCE POINTS	_20_
IV.	TOTAL GOOD FAITH POINTS	<u>-15</u>

TOTAL ASSESSED POINTS 29

TOTAL ASSESSED FINE \$ 380.00